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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/135,154	08/17/1998	T. ALLAN HAMILTON	CLB5-B73	8963

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EXAMINER
ZIMMERMAN, BRIAN A

ART UNIT	PAPER NUMBER
2635	

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/135,154	Applicant(s) HAMILTON, T. ALLAN	
	Examiner Brian A Zimmerman	Art Unit 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 September 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *41-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *41-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

EXAMINER'S RESPONSE

Status of Application

In response to the applicant's amendment received on 9/18/02. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 41-49 are unpatentable for the reasons set forth in this office action:

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 41-49 are rejected under 35 U.S.C. 103(a) as obvious over Kohler (U.S. 5,115,236) and the IRDA specification as discussed by the applicant on page 3 of the specification.

Kohler teaches a device (Fig. 2) for reducing power consumption in infrared-enabled appliances having power supply means and transceiver system means forming a circuit including switch means (Col. 1, lines 7-28 and Col. 2, lines 30-54), comprising: (wake-up) signal receiver (RC receiver in Fig. 2) and power actuator module (control voltage output 41 in Fig. 2), said module configured to recognize incident Ir discovery signals and responsively activate said switch means (Col. 3, lines 53-68 through Col. 5, lines 1-22). Kohler teaches an infrared receiver (Fig. 2) and discovery signal detection

circuitry configured to recognize the power level of the infrared "discovery signals" incident to said receiver and emit a power-up signal to said switch means (Fig. 2; Col. 4, lines 28-56). Kohler teaches a discovery signal receiver and power actuator module which consumes several micro-amperes (Col. 4, lines 33-35). Kohler teaches that the power-up (message) signal can be instigated by user input (keyboard 8 in Fig. 3) via the transmitter portion of the transceiver system (Col. 5, lines 30-48). It is noted the claims require interpretation to determine if a wake up signal is being received. Kohler accomplishes this, in that the level of the received signal is used to determine if the received signal includes a wake up signal. Therefore the received signal is interpreted in order to determine if a wake up signal has been received. The applicant admits that the IRDA standard discovery signal is used as a wake up signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an IRDA discovery signal to control the wake up elements of the Kohler communication system.

Alternatively, Kohler states that it is not necessarily the amplitude, which can be used to distinguish the wake up signal. The examiner takes official notice that it is well within the skill level of one of ordinary skill in the art to compare the digital content of a received signal for distinguishing received signals and to use digital content as a distinguishing characteristic would have therefore been obvious.

2. Claims 41-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler, the IRDA specification as discussed by the applicant on page 3 of the specification and the EP publication Selin (EP 0772307).

This rejection is based upon an alternative interpretation of the claims. As discussed above, Kohler and the Background section of the specification combine to teach an IrDA system that includes low power modes to save power. In an analogous art, Selin shows a communication device that uses a sleep mode to reduce power consumption in the devices. Selin uses a specially coded signal or sequence to wake up a receiving communication unit. See col. 4 lines 45-55 and col. 9 lines 32+. The receiver must decode or otherwise interpret this sequence to be the desired sequence before waking up. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a coded wake up sequence as suggested by Selin in the Kohler system because such would provide a simple and reliable data transfer, see col. 10 line 26+ (Selin).

Response to Arguments

Applicant's arguments filed 9/18/02 have been fully considered but they are not persuasive.

The applicant argues that the claims specify a new use for the IrDA DISCOVERY SIGNAL. The applicant's specification states that the IrDA discovery signal is defined as a signal that wakes up the appliances within range. Although the IrDA specification

does not set forth that this "waking up" procedure involves different power levels, Kohler and the European Publication do suggest the claimed power control in response to a wake up signal.

The applicant argues that the wake up procedure of Kohler cannot be substituted for the wake up procedure of the IrDA specification. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Here, it is clear that the applicant describes the IrDA discovery signal as a signal that performs some type of waking up of the appliance, while it is also clear that a waking up process is performed in Kohler, where Kohler's waking up also addresses power saving. Similarly, the EP Publication addresses the use of coded signals to wake up and change the power level of an appliance.

The applicant argues that Claim 42 describes a complete power controlled transceiver while Kohler only describes a power controlled receiver. It is pointed out that Selin expressly shows an embodiment of power control in a transceiver, and that in view of Kohler controlling power in a transceiver appliance would have been obvious in view of controlling power in a receiver appliance, when the appliances are portable and

power consumption is a concern. Furthermore, Kohler (as pointed out by the applicant) does inhibit the transmitter even if for only a short period of time.

The applicant argues that Claims 46 and 49 specify that power up is accomplished by a second receiver and detection circuit. Here it is interpreted that the second receiver is equivalent to the Kohler receiver in the power save mode. The claims do not differentiate from this interpretation.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 703-305-4796. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 703-305-4704. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Brian A Zimmerman
Primary Examiner
Art Unit 2635

BaZ
December 18, 2002